

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

ANTHONY COOKS,	§	
Plaintiff,	§	
	§	
V.	§	Case No. 2:10cv332
	§	
OSCAR BARRON, ET AL.,	§	
Defendants.	§	

**MEMORANDUM OPINION AND ORDER DENYING WITHOUT
PREJUDICE PLAINTIFF’S MOTIONS TO COMPEL DISCOVERY**

Plaintiff is an inmate in the Texas Department of Criminal Justice - Institutional Division, currently assigned to the McConnell Unit in Beeville, Texas. Proceeding *pro se* and *in forma pauperis*, plaintiff filed a civil rights complaint pursuant to 42 U.S.C. § 1983, alleging that defendant Barron sexually assaulted him, and the remaining defendants failed to protect him (D.E. 1). Service of process was ordered and all defendants filed their answer on January 18, 2011 (D.E. 18). Pending are plaintiff’s three motions for discovery and for production of documents (D.E. 22, 25, 31). The motions are denied without prejudice.

First of all, plaintiff is warned that none of his recent pleadings contains a certificate of service. The Federal Rules of Civil Procedure and the Local Rules for the Southern District of Texas require that plaintiff mail to counsel for the defendants a copy of any pleading, motion, or paper he files with the court, and also require that all of his pleadings contain a certificate of service at the end stating that he mailed a copy of his pleading to the lawyer for the defendants. FED. R. CIV. P. 5(d); LR5.3, 5.5. Any pleadings filed by plaintiff

in the future which do not contain a certificate of service will be struck without notice and not considered.

Second, plaintiff has not properly requested discovery. According to the Federal Rules of Civil Procedure and the Local Rules, plaintiff should send his discovery requests directly to the lawyer for the defendants. Discovery and discovery requests are not filed with the court. LR5.4. The court notes that defendant have provided initial disclosures to the plaintiff (D.E. 26). Plaintiff should review the initial disclosures and then request only the discovery *relevant* to his claims, FED.R.CIV.P. 26(b)(1), which has not already been provided by the defendants. Counsel for defendants will have thirty days (30) days to comply with plaintiff's discovery requests.

If plaintiff does not receive the requested discovery from counsel for the defendants, he may then file a motion with the court for an order to compel disclosure. FED.R.CIV.P. 37. Plaintiff's motion to compel disclosure must include a list of the information he requested, the date he requested it, and the response (if any) he received from counsel for the defendants. Again, plaintiff must comply with the requirement that he mail a copy of his motion to the court and to counsel for the defendants, who will have twenty days to file a response to the motion.

ORDERED this 2nd day of March, 2011.


B. JANICE ELLINGTON
UNITED STATES MAGISTRATE JUDGE